

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WARRAN CHAN,

Plaintiff,

vs.

PAN WESTERN CORP, et al.,

Defendants.

Case No. 2:10-cv-01317-KJD-PAL

REPORT OF FINDINGS AND
RECOMMENDATION

This matter is before the court on Defendants Pan Western Corp.'s, Mitchell Truman's, and Charles Ring's failure to comply with this court's Order (Dkt. #34) and Order to Show Cause (Dkt. #37).

On July 21, 2011, the court granted attorney Matthew L. Johnson's motion to withdraw as counsel of record and gave Defendant Pan Western Corp. until August 22, 2011, in which to retain counsel. *See* Dkt. #34. The court allowed Defendants Truman and Ring until August 22, 2011, in which to either retain counsel or file a notice that they would appear *pro se*. The Order directed the Clerk of the Court to serve Defendants with a copy of the order at their last known addresses provided by its former counsel and advised Defendants that their failure to timely comply with the order "may result in a recommendation to the District Judge for sanctions, including case-dispositive sanctions." Defendants failed to either retain counsel and did not request an extension of time in which to comply with the court's Order.

On October 26, 2011, the court entered an Order to Show Cause (Dkt. #37) based on Defendants' failure to comply with the court's previous Order (Dkt. #34). The court directed Defendants to show cause in writing no later than November 7, 2011 why it had not complied with the court's Order (Dkt. #34). The Order to Show Cause again warned Defendants that failure to timely comply with the Order to Show Cause may result in the imposition of sanctions, up to and including entry of default judgment

1 against them. Defendants have failed to file a response to the Order to Show Cause (Dkt. #37), and they
2 have not requested an extension of time in which to do so. Defendants' willful failure to comply with
3 the court's Orders is an abusive litigation practice that has interfered with the court's ability to hear this
4 case, delayed litigation, disrupted the court's timely management of its docket, wasted judicial resources,
5 and threatened the integrity of the court's orders and the orderly administration of justice. Sanctions less
6 drastic than default judgment unavailable because Defendants have wilfully refused to comply with
7 multiple court Orders and the Local Rules of Practice.

8 Accordingly,

9 **IT IS RECOMMENDED** that default judgment be ENTERED against Defendants an Western
10 Corp., Mitchell Truman, and Charles Ring unless they retain counsel who files a notice of appearance on
11 or before **December 12, 2011**.

12 Dated this 16th day of November, 2011.

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16 PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE

17 **NOTICE**

18 These findings and recommendations are submitted to the United States District Judge assigned
19 to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served
20 with these findings and recommendations, any party may file written objections with the court. Pursuant
21 to Local Rule of Practice (LR) IB 3-2(a), any party wishing to object to the findings and
22 recommendations of a magistrate judge shall file and serve *specific written objections* together with
23 points and authorities in support of those objections, within fourteen days of the date of service of the
24 findings and recommendations. The document should be captioned "Objections to Magistrate Judge's
25 Findings and Recommendations." The parties are advised that failure to file objections within the
26 specified time may waive the right to appeal the District Court's Order. *Martinez v. Ylst*, 951 F.2d 1153
27 (9th Cir. 1991). The points and authorities filed in support of the specific written objections are subject
28 to the page limitations found in LR 7-4.